

Appl. No. : **09/942,983**
Filed : **August 30, 2001**

REMARKS

Claims 1-157 were previously canceled without prejudice or disclaimer. Claims 158-167 were previously added. The Applicants traverse all rejections as set forth herein.

Relation to U.S. Patent No. 6,185,543 to Galperin et al.

The Applicants note that the present application contains subject matter that is also disclosed in U.S. Patent No. 6,185,543 to Galperin et al. (the "Galperin patent"). The present application does not claim priority to the Galperin patent.

The pending claims of the present application differ in scope and are in some respects broader than the issued claims of the Galperin patent. Moreover, to the extent that arguments or statements made during prosecution of the Galperin patent are believed to define or limit the claims of the present application, or to disclaim or disavow any subject matter disclosed in the present application, the Applicants expressly disclaim all such arguments and statements. As such, it shall not be reasonably inferred that the prosecution history of the Galperin patent defines or limits the claims of the present application or disclaims or disavows any subject matter disclosed in the present application.

In view of the foregoing, the Applicants request that the Examiner revisit the art, including the art cited during prosecution of the Galperin patent, during examination of the present application.

The Applicants have previously submitted a terminal disclaimer with respect to the Galperin patent.

35 U.S.C. § 101

The Examiner rejected Claims 158-167 under 35 U.S.C. § 101 for allegedly lacking utility. The Applicants traverse the rejection. Claim 158 explicitly recites the limitation "wherein the plurality of loan terminals are adapted to use the prepayment scores to adjust loan terms." Claim 163 explicitly recites the limitation "a fourth set of computer-executable instructions comprising instructions configured to cause the computer to transmit the calculated prepayment score to a loan terminal adapted to adjust terms of a loan." Accordingly, the claims explicitly recite at least the utility of using prepayment scores to adjust loan terms.

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35 U.S.C. § 112

The Examiner rejected Claims 158-167 under 35 U.S.C. § 112 for allegedly lacking utility and not complying with the best mode requirement. However, because the stated reasons for the rejections are that a skilled artisan “would not know how to use the invention” or “would have to engage in unreasonable experimentation in an attempt to use the inventions,” these appear to be enablement rejections. The Applicants traverse the rejections. The specification includes detailed algorithms and/or formulae for calculating prepayment scores in the manner set forth in the claims. Accordingly, the specification teaches a person of ordinary skill in the art how to practice the claimed invention without undue experimentation.

The Examiner also rejected Claims 158-167 as allegedly being indefinite. The Applicants traverse this rejection because the claims clearly define the scope of the claimed invention, to a person of ordinary skill in the art.

35 U.S.C. § 103

The Examiner rejected Claims 158-167 under 35 U.S.C. § 103 as allegedly being obvious in view of the Ervolini publication, the Anderson patent, the Baronowski patent, the Traub patent, the Culhane patent, the Heckerman patent, the Eder patent, the Halverson patent, and Official Notice. The Applicants traverse the rejection because the references, even when combined, do not teach, fairly suggest, or render obvious every claim limitation of the pending claims. Moreover, even though the Examiner has relied upon a particularly complicated combination of references to reject the pending claims, the Examiner has not provided any reason why a person of ordinary skill in the art would have been led to make that particular combination of references. The Applicants also traverse the Examiner’s taking of Official Notice that the use of summation formulae was well-known in the art. The Examiner provided no evidence that the use of summation formulae for calculating prepayment scores was well-known, nor any evidence that the particular formula recited in the pending claims was well-known. Accordingly, the Applicants submit that the Examiner’s taking of Official Notice was improper.

Conclusion

The Applicants respectfully request the withdrawal of the rejections of Claims 158-167. The Applicants are seeking to arrange an interview, and they look forward to having such an interview, to further discuss the allowability of the claims over the cited art.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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